UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	CAUSE NO.: 1:13-cr-00150-WTL-TAB
v.	)	
	)	
GUOQING CAO,	)	-01
SHUYU LI,	)	-02
a/k/a "Dan,"	)	
	)	
Defendants.	)	

GOVERNMENT'S MOTION FOR PRETRIAL DETENTION

The United States of America, by counsel, Joseph H. Hogsett, United States Attorney for the Southern District of Indiana, and Cynthia J. Ridgeway, Assistant United States Attorney, respectfully moves the Court to detain the defendants pretrial for the reasons set forth below as well as those that will be presented at the detention hearing scheduled to commence on October 8, 2013 at 2:30 p.m.

I. INTRODUCTION

1. Guoqing Cao ("Cao") and Shuyu Li, a/k/a "Dan" ("Li") were charged by way of a superseding indictment returned on August 14, 2013, with Theft of Trade Secrets, in violation of Title 18, United States Code, Sections 1832(a)(2) and 2, and Conspiracy to Commit Theft of Trade Secrets, in violation of Title 18, United States Code, Sections 1832(a)(2) and 1832(a)(5).

2. If convicted, the defendants face a statutory maximum penalty of 10 years' imprisonment on each count, a fine of not more than $250,000.00 or twice the pecuniary loss, and not more than three years of supervised release.

3. Both defendants appeared for the first time to face the criminal charges before the Honorable Magistrate Judge Mark J. Dinsmore, United States Court, Southern District of Indiana. Li first appeared on October 1, 2013, while Cao's first appearance occurred on October 2, 2013. In each instance, the government moved for pretrial detention because the defendant poses a serious risk of flight and a serious danger to the community, pursuant to Title 18, United States Code, Section 3142(f)(1)(2)(A) and 3142(f)(1)(2)(B).

II. THE BAIL REFORM ACT

4. The Bail Reform Act at Title 18, United States Code, Section 3142(g) sets forth specific factors to be considered when addressing the issue of pretrial detention. Each of these "G factors" supports the government's position.

1. The Nature & Circumstances of the Offense

5. The charges brought in this case are proscribed under Title 18, United States, Section 1832. While the Department takes every case seriously, its commitment is especially substantial to prosecutions involving the intentional misappropriation of American industry. This reflects the seriousness, for the nation as a whole, of a crime involving the transmission of American trade secrets. Here, the defendants are accused of transmitting trade secrets to their native country, the People's Republic of China ("PRC"), where they were born, raised, educated, employed (either currently or recent in time), and travel frequently – and where they have held citizenship. Moreover, the superseding indictment alleges the defendants were each entrusted with trade secrets owned by Eli Lilly & Company, headquartered in the Southern District of Indiana, and that they abused that trust by transferring trade secrets to a company located in the PRC. See Superseding Indictment, ¶¶ 32-64. The very gravamen of the charged crimes is that the defendants were stealing trade secrets and transmitting them to the PRC for the benefit of

one of Lilly's direct competitors in the global marketplace. A decision to release the defendant would fail to accord appropriate weight to the fact that the charges involve research on and possible commercial development of American trade secrets in the PRC – the defendants' native country, and one with no extradition treaty with the United States.

2. The Weight of the Evidence

6. In discussing the weight of the evidence, see 18 U.S.C. § 3142(g)(2), the government contends that its evidence is strong, and while not prepared to try its case at the detention hearing, will certainly be prepared to offer additional details about its evidence, should the Court find that necessary. To that end, the government is preparing discovery pursuant to Rule 16 of the Federal Rules of Criminal Procedure and after a stipulated protective order is entered pursuant to Title 18, United States Code, Section 1835, will provide much of that to counsel of record.

3. The History & Characteristics of the Defendants

7. The defendants' history and characteristics, see 18 U.S.C. ¶ 3142(g)(3), lead a reasonable person to conclude that the defendants pose a serious flight risk – their upbringing and extensive family ties in the PRC, the lack of property or ties other than immediate family in the Southern District of Indiana, absence of employment for Li, and employment and residence in the PRC for Cao, and their frequent travel to the PRC and other countries abroad. Cao's risk of flight is aggravated based on his current employment with the competing company that stands to benefit from his criminal acts, while Li's is aggravated based on his lack of employment. The defendants effectively have few, if any, solid ties to this district other than their immediate family, who could relocate and move at any time.

8. The value of the trade secrets, in the context of detention, is relevant for two

reasons: (i) its effect on the potential sentence, and (ii) the potential value to the defendants were they able to exploit the trade secrets again, which the government submits is substantial. This is especially so here, given Lilly's estimate of the value of the stolen trade secrets that will be offered through witness testimony at the detention hearing.

III. CONCLUSION

9. No combination of conditions are available to reasonably assure the defendants return to court and the safety of the community.

WHEREFORE, for the foregoing reasons as well as those that will be presented at the detention hearing, the United States prays the Court detain the defendants pretrial, and for all other just and proper relief.

Respectfully submitted,
JOSEPH H. HOGSETT
United States Attorney

By: */s/ Cynthia J. Ridgeway*
Cynthia J. Ridgeway
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on the defendants, by and through operation of the Court's e-filing system and that a courtesy copy was electronically served this 8th day of October 2013, addressed as follows:

Scott C. Newman
Attorney at Law
scott@scottnewmanlaw.com

David J. Hensel
Attorney at Law
dhensel@pencehensel.com

/s/ Cynthia J. Ridgeway
Cynthia J. Ridgeway
Assistant United States Attorney

Office of the United States Attorney
Ten West Market Street, Suite 2100
Indianapolis, IN 46204
(317) 226-6333
cynthia.ridgeway@usdoj.gov